

**REMARKS**

Favorable reconsideration and allowance of the subject application are respectfully requested in view of the following remarks.

**Summary of the Office Action**

Claims 1, 3-5 and 8 stand rejected under 35 U.S.C. §102(e) as being anticipated by Ogasawara et al. (U.S. Patent No. 6,151,154).

Claims 2 and 6 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Ogasawara et al. in view of Matsuura (U.S. Patent No. 6,510,111).

Claim 7 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Ogasawara et al. in view of Ootaki et al. (U.S. Patent No. 5,936,923).

**Summary of the Response to the Office Action**

Applicants amend claims 1-7 by this amendment. The amendments made to claims 1-7 are supported by, for example, page 25, line 20 – page 28, line 17, and page 38, lines 16-22 of the specification. Claims 1-8 remain currently pending.

**Claim Rejections Under 35 U.S.C. §102(e)**

Claims 1, 3-5 and 8 stand rejected under 35 U.S.C. §102(e) as being anticipated by Ogasawara et al. To the extent this rejection might be applied to claims 1, 3-5 and 8, as newly-amended, it is respectfully traversed for at least the following reasons.

Applicants respectfully submit that Ogasawara et al. does not anticipate claims 1, 3-5, and 8 because Ogasawara et al. fails to disclose every feature of these recited claims. For instance, it is respectfully submitted that Ogasawara et al. fails to teach or suggest the claimed combination as set forth in independent claim 1, as newly-amended including at least “a phase

device which changes the polarization of an inner light and the polarization of an outer light so that the inner light and the outer light are circularly polarized and the rotating direction of the inner light polarization is opposite to the rotating direction of the outer light polarization, the inner and outer lights being inner and outer radius portions of said parallel light beam, respectively.”

According to an embodiment of the present invention as claimed, an optical pickup apparatus includes a phase device which changes an inner light and an outer light to be circularly polarized in which the rotating direction of the inner light polarization is opposite to the rotating direction of the outer light polarization. See, for example, page 25, line 20 – page 26, line 6 of the specification. As shown in FIG. 5, with this arrangement, the 0-th order inner light and the  $\pm 1$ st order diffracted light do not interfere in the overlapped portion XI' and YI', thereby obtaining a focusing error and aberration error signals of high-linearity with high precision. Also, see, for example, page 40, lines 10-20 of the specification.

In contrast to Applicants' claimed combinations, Ogasawara et al. merely discloses that the phase device (22A) provides two light beams passing through the inner and outer zones thereof. In particular, Ogasawara et al.'s phase device (22A) provides a phase difference in the traveling direction of the light beams so that a wave front aberration caused by astigmatism can be canceled. See, for example, column 8, lines 1 and 33-34 of Ogasawara et al. However, no portion of Ogasawara et al.'s disclosure teaches or suggests a rotating direction of an inner light polarization being opposite to a rotating direction of an outer light polarization. Accordingly, Applicants respectfully submit that Ogasawara et al. fails to teach or suggest the phase device as set forth in Applicants' claimed combination.

M.P.E.P. § 2131 states “[t]o anticipate a claim, the reference must teach every element of the claim.” Applicants respectfully submit that since Ogasawara et al. does not teach or suggest every feature of independent claim 1, as newly-amended, Ogasawara et al. does not anticipate claim 1. Further, since claims 3-5 and 8 depend from claim 1, it is respectfully submitted that Ogasawara et al. also does not anticipate claims 3-5 and 8. Accordingly, withdrawal of the rejection of claims 1, 3-5 and 8 under 35 U.S.C. §102(e) is respectfully requested.

#### **Claim Rejections Under 35 U.S.C. §103(a)**

Claims 2 and 6 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Ogasawara et al. in view of Matsuura. Claim 7 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Ogasawara et al. in view of Ootaki et al. They are respectfully traversed for at least the following reasons.

It is respectfully submitted that Matsuura and Ootaki et al. are not relied upon to teach or suggest a phase device, and do not remedy the above-discussed deficiencies of Ogasawara et al. with regard to the rejection under 35 U.S.C. §102(e). Thus, at least because claims 2, 6 and 7 depend from claim 1, and because the applied references, whether taken separately or in combination, fail to teach or suggest every feature of claims 2, 6 and 7, Applicants respectfully submit that the applied references fail to render claims 2, 6 and 7 unpatentable. Accordingly, withdrawal of the rejections under 35 U.S.C. §103(a) of claims 2, 6 and 7 are respectfully requested.

#### **Conclusion**

In view of the foregoing, withdrawal of the rejections and allowance of the pending claims are earnestly solicited. Should there remain any questions or comments regarding this

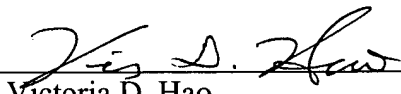
response or the application in general, the Examiner is urged to contact the undersigned at the number listed below.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

**MORGAN, LEWIS & BOCKIUS LLP**

Dated: November 12, 2004

By:   
Victoria D. Hao  
Registration No. 47,630

**Customer No.: 009629**  
**MORGAN, LEWIS & BOCKIUS LLP**  
1111 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
Telephone: 202.739.3000  
Facsimile: 202.739.3001